

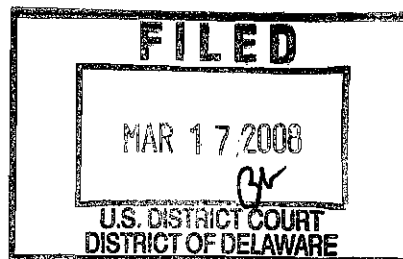
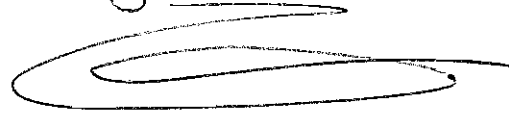
March 13, 2008

CA 08-046MS

Dear Clerk of the Court:

Please provide this recent response to the defendant's (CMS) lawyer James E. Deneck, informing me that they can delay or withheld medical treatment from me for refusing to accept care from Dr. Desrosier, to Judge Sleet.

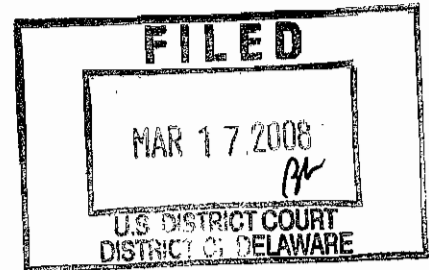
Thank you,  
James A. Higgins



10. Mr. JAMES EDWARD DENEK, Esquire  
Balick and Balick Attorneys at Law  
711 King Street  
Wilmington, Delaware 19801

March 12, 2008

Re: Biggins v. Minner, et al.,  
C.A. No. 1-08-04 GMS



Dear Mr. DENEK:

I'm in receipt of your reply to my earlier letter advising you of my decision to request that certain members of (CMS) medical team now be prohibited from practicing medicine or participating in medical decisions in regards to me.

Sir, your reply seemingly suggest that my Medical Right to refuse medical treatment must (a) be made at each appointment, (b) be made to wait (however how long) to be seen, or (c) make other appointments in order to receive medical attention. Please note that I have taken the liberty to make the Court and (CMS) facility administrator (Ron Moore) aware of each of our stands and again to serve notice to my Right to refuse medical treatment by certain individuals (CMS) employees. Are you saying that you are not aware of specific forms of medical treatment your clients are duty bound to facilitate in accordance with the USDOJ Agreement. See copy of Mr. Martin's letter addressed to me, the independent monitor assigned to this case. Pertinent part thereof has been underlined (Exhibit B).

In Closing, any assertion that you are making that I cannot withdraw my consent to treatment overall of certain (CMS) employees, is absurd. Moreover, suggesting that my withdrawal of treatment by specific employees will lead in me not being seen is an insult on my intelligence. Sir, any non-medical delays in treating me demonstrates "cruel and unusual punishment". Estelle v. Gamble, 429 U.S. at 104; Natale v. Camden County Correctional Facility, 318 F.3d (3d Cir. 2003) (same). Mr. DENEK, in no way does refusing medical treatment by certain persons, facilitate me necessarily giving up my Right to treatment. Indeed, I expect for you to respectfully inform your clients as is your obligation.

XC:File  
U.S. District Court  
Ron Moore (CMS Facility Adm)

Sincerely,  
James Anthony Biggins

**BALICK & BALICK** LLC  
ATTORNEYS

March 7, 2008

Sidney Balick

Adam Balick

James Drnec

Joseph Naylor

James A. Biggins  
SBI# 319264  
1181 Paddock Rd.  
Unit 22/A-U-4  
Smyrna, DE 19977

**Re: *Biggins v. Minner, et al.,*  
C.A. No. 08-004 GMS**

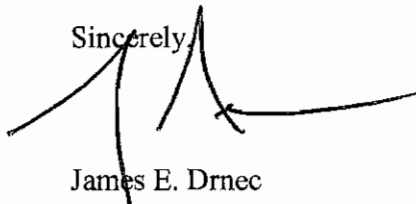
Dear Mr. Biggins:

I am in receipt of your letter dated February 29, 2008 wherein you have advised me of your request that certain medical personnel have no further involvement in your care and treatment. You have every right to refuse medical treatment. That is your choice. CMS will not, however, be hiring new personnel simply to suit you.

If an appointment is made or sick call is addressed, and you do not care for the particular medical provider, you may refuse treatment. If no other medical provider is available, you will have to wait until another one is. If none is available at that time, you will have to make another appointment and hope for the best. CMS is committed to providing quality medical care, but cannot provide each inmate with the medical providers of their choice.

**Furthermore, this letter is to advise you that notice of withdrawal of consent to me does not constitute notice to the health care providers you have identified. If at any time you wish not to be treated by one or more of them, you must withhold consent at the time of the treatment. You may not consider any health care provider to be bound by your letter to me.**

Sincerely,



James E. Drnec

JD/jz

Exhibit A



1313 North Market Street  
P.O. Box 951  
Wilmington, DE 19899-0951  
302 984 6000

[www.potteranderson.com](http://www.potteranderson.com)

**Joshua W. Martin III**  
Partner  
Attorney at Law  
[jmartin@potteranderson.com](mailto:jmartin@potteranderson.com)  
302 984-6010 Direct Phone  
302 778-6010 Fax

January 7, 2008

**By First Class Mail**

Mr. James Biggins (SBI No. 00319264)  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

Re: Letter postmarked December 4, 2007

Dear Mr. Biggins:

This letter is in response to the letter you sent to me which was postmarked December 4, 2007.

On December 29, 2006, the State of Delaware and the United States Department of Justice entered into an agreement called the Memorandum of Agreement between the United States Department of Justice and the State of Delaware regarding the Delores J. Baylor Women's Correctional Institution, the Delaware Correctional Center, the Howard R. Young Correctional Institution, and the Sussex Correctional Institution (the "Agreement"). The Agreement contains a number of requirements that the State must meet with regard to the medical and mental health care provided to inmates in the Delores J. Baylor Women's Correctional Institution, the Howard R. Young Correctional Institution, the Delaware Correctional Center, and the Sussex Correctional Institution. The Agreement also provides that the State and the USDOJ must jointly select an independent monitor to review the State's progress and whether the State is complying with the requirements imposed by the Agreement.

Earlier this year, I was selected to act as the independent monitor. My responsibility as independent monitor is to monitor the medical and mental health care provided to inmates at the facilities described above in order to determine whether the State is in compliance with its obligations under the Agreement, and, with the help of the members of the monitoring team, provide technical assistance to the State as necessary. Due to my role as independent monitor, I am not able to offer legal advice or act as an advocate for individual inmates. Therefore, I am unable to provide you with any direct assistance in response to your letter.

Exhibit B

Mr. James Biggins (SBI No. 00319264)

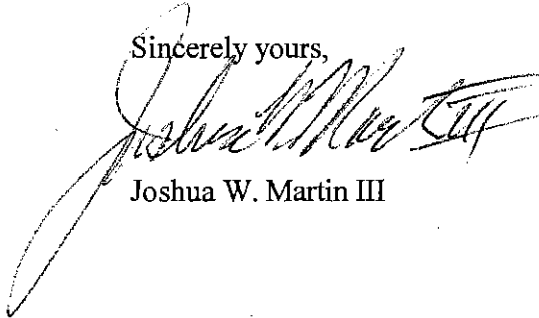
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January 7, 2008

If you have not yet done so, you might wish to consider submitting a grievance to the Department of Correction regarding your complaint. In addition, you might wish to consider writing to the Commissioner of the Department of Correction, Carl Danberg. Finally, if you have taken these actions or have legal questions, you might consider contacting another attorney or a legal services lawyer, who might be able to provide you with assistance.

I would like to thank you for taking the time to submit your letter. The information you have provided will assist me in my duties as independent monitor, and I will consider it carefully along with other information I receive from various sources in determining whether the State is in compliance with the Agreement.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Joshua W. Martin III", is written over the typed name. The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

Joshua W. Martin III

JWM/jmm  
840648

